

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
4 State Bar No. 237826
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7549
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 9 20 19
BY K. W. Wong ANALYST

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2017-031094

PAUL JONATHAN SACKSCHEWSKY,
M.D.
1335 S. Fairmont
Lodi, CA 95240

A C C U S A T I O N

Physician's and Surgeon's Certificate
No. G 79026,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 1, 1994, the Medical Board issued Physician's and Surgeon's Certificate No. G 79026 to Paul Jonathan Sackschewsky, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“...

1 “(b) Gross negligence.

2 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
3 omissions. An initial negligent act or omission followed by a separate and distinct departure from
4 the applicable standard of care shall constitute repeated negligent acts.

5 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
6 that negligent diagnosis of the patient shall constitute a single negligent act.

7 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
8 constitutes the negligent act described in paragraph (1), including, but not limited to, a
9 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
10 applicable standard of care, each departure constitutes a separate and distinct breach of the
11 standard of care.

12 “... ”

13 6. Section 2266 of the Code states:

14 “The failure of a physician and surgeon to maintain adequate and accurate records relating
15 to the provision of services to their patients constitutes unprofessional conduct.”

16 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
17 which breaches the rules or ethical code of the medical profession, or conduct which is
18 unbecoming a member in good standing of the medical profession, and which demonstrates an
19 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
20 575.)

21 **FIRST CAUSE FOR DISCIPLINE**
22 **(Gross Negligence)**

23 8. Respondent has subjected his Physician’s and Surgeon’s Certificate No. G 79026 to
24 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of
25 the Code, in that he committed gross negligence in his care and treatment of Patient A,¹ as more
26 particularly alleged hereinafter:

27 ¹ References to “Patient A” are used to protect patient privacy. The identity of Patient A is
28 disclosed in the discovery.

1 9. Patient A's medical diagnoses included, but were not limited to, bipolar 1 disorder,²
2 anxiety, depression, chronic pain, hypertension,³ and chronic opiate and benzodiazepine⁴
3 dependence. On or about September 18, 2013, Patient A was seen by her primary care physician,
4 Dr. K., and requested a prescription for Methadone.⁵ On that day, Patient A was diagnosed with
5 atrial flutter,⁶ which resulted in a referral to the Emergency Room (ER), and a deferral of
6 prescription for Methadone.

7 10. Following her discharge from the ER, Patient A requested an appointment with
8 Respondent, demanding a prescription for Methadone. Apparently, Patient A was unwilling to
9 wait for an appointment with Dr. K, who was unavailable until September 23, 2013.

10 11. On or about September 20, 2013, Patient A visited Respondent. Without identifying
11 or documenting identification of any new or acute medical issues, Respondent prescribed to
12 Patient A, Methadone at 30 mg, per day, to be titrated up⁷, instead of deferring to Patient A's
13 primary care physician. Respondent did not order a cardiovascular examination in order to
14 reassess Patient A's atrial flutter. Respondent did not refer Patient A to a cardiologist for further
15 investigation and/or assessment and/or evaluation of Patient A's atrial flutter. Respondent failed
16 to consider and/or failed to document consideration of Patient A's need for anticoagulation.

17
18 ² Bipolar disorder, formerly called manic depression, is a mental health condition that
causes dramatic shifts in a person's mood, energy, and ability to think clearly.

19 ³ Hypertension is another name for high blood pressure.

20 ⁴ Benzodiazepine is a Schedule IV controlled substance pursuant to Health and Safety
21 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions
22 Code section 4022. When properly prescribed and indicated, it is used for the management of
anxiety disorders. Concomitant use of benzodiazepines, such as Xanax®, with opioids "may
23 result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement
Administration (DEA) has identified benzodiazepines, such as Xanax®, as a drug of abuse.
(Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

24 ⁵ Methadone is a Schedule II controlled substance pursuant to Health and Safety Code
25 section 11055, subsection (c)(14), and a dangerous drug pursuant to Business and Professions
26 Code section 4022. When properly prescribed and indicated, Methadone is generally used to treat
moderate to severe pain.

27 ⁶ Atrial flutter is an abnormality in the beating of the heart.

28 ⁷ Titrate means to continuously measure and adjust the balance of a physiological function
or drug dosage.

1 Despite Patient's A's bipolar 1 disorder diagnosis, Respondent did not take steps to adequately
2 assess and/or address additional risks associated with a poorly managed bipolar disorder, before
3 prescribing Methadone to her. Respondent failed to document details of Patient A's symptoms,
4 any physical examinations administered, or any plan for follow-up or referrals to specialists, if
5 any. Respondent failed to adequately document assessment of pertinent co-existing conditions
6 that may impact management of Patient A.

7 12. On or about September 21, 2013, Patient A expired.

8 13. Respondent committed gross negligence in his care and treatment of Patient A, which
9 included, but was not limited to, the following:

10 (a) Respondent failed to adequately reassess Patient A's atrial flutter after she was
11 diagnosed with it; and

12 (b) Respondent failed to adequately document his care and treatment of Patient A.

13 **SECOND CAUSE FOR DISCIPLINE**
14 **(Repeated Negligent Acts)**

15 14. Respondent has further subjected his Physician's and Surgeon's Certificate No.
16 G 79026 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
17 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
18 treatment of Patient A, as more particularly alleged herein:

19 (a) Paragraphs 8 through 13, above, are hereby incorporated by reference and realleged
20 as if fully set forth herein;

21 (b) Respondent failed to adequately reassess Patient A's atrial flutter after she was
22 diagnosed with it;

23 (c) Respondent failed to adequately document his care and treatment of Patient A;

24 (d) Despite Patient's A's bipolar 1 disorder diagnosis, Respondent did not adequately
25 assess and/or address additional risks associated with a poorly managed bipolar disorder, before
26 prescribing Methadone to her; and

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1 (e) Without identifying or documenting identification of any new or acute medical issues,
2 Respondent prescribed Methadone to Patient A, instead of deferring to her primary care
3 physician.

4 **THIRD CAUSE FOR DISCIPLINE**
5 **(Failure to Maintain Adequate and Accurate Records)**

6 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.
7 G 79026 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
8 Code, in that Respondent failed to maintain adequate and accurate records regarding his care and
9 treatment of Patient A, as more particularly alleged in paragraphs 8 through 14, above, which are
10 hereby incorporated by reference and realleged as if fully set forth herein.

11 **FOURTH CAUSE FOR DISCIPLINE**
12 **(General Unprofessional Conduct)**

13 16. Respondent has further subjected his Physician's and Surgeon's Certificate No.
14 G 79026 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
15 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
16 unbecoming to a member in good standing of the medical profession, and which demonstrates an
17 unfitness to practice medicine, as more particularly alleged in paragraphs 8 through 15, above,
18 which are hereby incorporated by reference as if fully set forth here.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Medical Board of California issue a decision:

22 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 79026, issued
23 to Paul Jonathan Sackschewsky, M.D.;

24 2. Revoking, suspending or denying approval of Paul Jonathan Sackschewsky, M.D.'s
25 authority to supervise physician assistants and advanced practice nurses;

26 3. Ordering Paul Jonathan Sackschewsky, M.D., if placed on probation, to pay the
27 Board the costs of probation monitoring; and

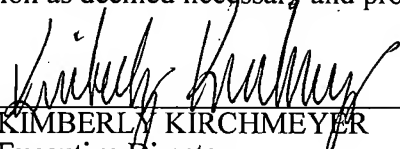
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4. Taking such other and further action as deemed necessary and proper.

DATED:

January 9, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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